

# **JOURNAL OF THE SENATE**

## **EIGHTY-SEVENTH SESSION**

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NINETEENTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Friday, February 10, 2012

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Larry Cass, followed by the Pledge of Allegiance led by Senate page Lucas Peterson.

Roll Call: All members present except Sens. Nygaard and Schlekeway who were excused.

### **APPROVAL OF THE JOURNAL**

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the eighteenth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Bob Gray, Chair

Which motion prevailed.

**REPORTS OF STANDING COMMITTEES**

MR. PRESIDENT:

The Committee on Education respectfully reports that it has had under consideration SB 138 and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Education respectfully reports that it has had under consideration SB 85 and returns the same with the recommendation that said bill be amended as follows:

85ca

On page 3, between lines 1 and 2 of the printed bill, insert:

"

"Resident student fall enrollment," the number of resident kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the current school year minus the number of students for whom the district receives tuition, except plus nonresident students who are in the care and custody of a state agency and are attending a public school and students for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of resident students for whom the district pays tuition. When computing the small school adjustment for any school district that is not sparse, the secretary of education shall use either the school district's resident student fall enrollment or the average of the school district's resident student fall enrollment from the previous two years, whichever is higher;".

On page 3, delete lines 10 to 17, inclusive, and insert :

"

"Small school adjustment," for any school district that is not defined as sparse pursuant to § 13-13-78 is calculated as follows:

(a) For districts with a resident student fall enrollment of two hundred or less, multiply 0.2 times \$4,237.72;

(b) For districts with a resident student fall enrollment of greater than two hundred, but less than six hundred, multiply the fall enrollment times negative 0.0005; add 0.3 to that result; and multiply the sum obtained times \$4,237.72;

1           If a school district's fall enrollment is greater than 600, the district is not eligible for  
2           the small school adjustment even if the resident student fall enrollment is less than  
3           600."

4           On page 4, line 1, after "year" strike "2012 is \$4,389.95" and insert "2013 is \$4,494.19".

5           On page 4, line 8, delete "number of".

6           On page 4, line 9, delete "students enrolled" and insert "student fall enrollment".

7           On page 5, delete lines 7 to 9, inclusive, and insert:

8           "

9                       For any school district that is not defined as sparse pursuant to § 13-13-78,  
10                      multiply the small school adjustment, if applicable, by the resident student fall  
11                      enrollment; and".

12           On page 5, delete lines 21 to 24, inclusive.

13           On page 6, delete lines 1 to 4, inclusive.

14           85cta

15           On page 1, line 2, of the printed bill, delete everything after "formula" and insert ".".

16           On page 1, delete line 3.

17           And that as so amended said bill do pass.

18   Also MR. PRESIDENT:

19           The Committee on Education respectfully reports that it has had under consideration  
20   SB 130 and returns the same with the recommendation that said bill be amended as follows:

21           130cc

22           On the printed bill, delete everything after the enacting clause and insert:

23           "Section 1. If a school district does not have a bullying policy, the school district shall  
24   adopt a bullying policy that meets the requirements of this Act. If the school district already has  
25   a bullying policy in place, the school board shall review and, if necessary, revise the policy so  
26   that it meets the requirements of this Act.

27           Section 2. Bullying is the causing of physical hurt or psychological distress on one or more  
28   students that may involve threat, intimidation, stalking as defined in chapter 22-19A, physical  
29   violence, theft, destruction of property, any threatening use of data or computer software, written  
30   or verbal communication, or conduct directed against a student that:

- 1 (1) Places a student in reasonable fear of harm to his or her person or damage to his or
- 2 her property;
- 3 (2) Substantially interferes with a student's educational performance; or
- 4 (3) Substantially disrupts the orderly operation of a school.

5 For the purposes of this Act, bullying also includes retaliation against a student for asserting  
6 or alleging an act of bullying.

7 Section 3. Each school district policy developed pursuant to this Act shall contain the  
8 following provisions:

- 9 (1) A statement prohibiting bullying, and a definition of bullying that includes the  
10 definition in section 2 of this Act; and
- 11 (2) A statement that all students are protected with no mention of any protected classes  
12 of students.

13 Section 4. Any school district employee, school volunteer, student, or parent who promptly  
14 reports in good faith an act of bullying to the appropriate school district official as designated  
15 in the school district's policy, and who makes the report in compliance with the provisions of  
16 the school district's policy is immune from any cause of action for damages arising from failure  
17 to remedy the reported incident.

18 Section 5. Neither the physical location nor the time of day of any incident involving the use  
19 of computers or other electronic devices is a defense to any disciplinary action initiated pursuant  
20 to this Act."

21 And that as so amended said bill do pass.

22 Also MR. PRESIDENT:

23 The Committee on Education respectfully reports that it has had under consideration SB 77  
24 and returns the same with the recommendation that said bill be amended as follows:

25 77tb

26 On the printed bill, delete everything after the enacting clause and insert:

27 "Section 1. The Dakota Tech scholarship program is hereby established within the  
28 Governor's Office of Economic Development. Dakota Tech scholarships shall be awarded to  
29 encourage students at South Dakota's postsecondary technical institutes who are trained for  
30 employment in areas of critical need to remain in South Dakota upon completion of their  
31 postsecondary technical education. The Governor's Office of Economic Development shall  
32 provide for the awarding of Dakota Tech scholarships in accordance with the provisions of this  
33 Act.

1       Section 2. Terms used in this Act mean:

- 2       (1) "Administrator," the organization selected by GOED as provided in this Act to  
3       administer the Dakota Tech scholarship program;  
4       (2) "Area of critical need," an occupation within South Dakota for certain types of  
5       employers in certain geographical areas as specified by rules promulgated by GOED  
6       pursuant to section 14 of this Act;  
7       (3) "Dakota Tech scholarship award," an amount awarded to an individual student under  
8       the Dakota Tech scholarship program;  
9       (4) "GOED," the Governor's Office of Economic Development;  
10       (5) "Postsecondary technical institute," a postsecondary institute established pursuant to  
11       chapter 13-39.

12       Section 3. The Governor's Office of Economic Development shall select a nonprofit  
13       corporation to act as the administrator of the Dakota Tech scholarship program. GOED shall  
14       issue a request for proposals to identify and select the appropriate entity to serve as the  
15       administrator. The administrator shall, in accordance with the provisions of this Act, provide  
16       for the selection of scholarship recipients, the disbursement of scholarship funds, the collection  
17       and repayment of funds from recipients who have become ineligible, and other measures  
18       necessary for the implementation of this Act.

19       Section 4. To be eligible for a Dakota Tech scholarship a person shall:

- 20       (1) Have a high school diploma or general equivalency diploma (GED);  
21       (2) Agree in writing to stay in South Dakota and work in an area of critical need for a  
22       period of four years following graduation from a postsecondary technical institute;  
23       and  
24       (3) Enroll in or be accepted for enrollment by a postsecondary technical institute for a  
25       course of study in an area of critical need leading to a technical degree from the  
26       postsecondary technical institute.

27       Section 5. In order to maintain eligibility for a Dakota Tech scholarship a person shall:

- 28       (1) Maintain a 2.5 grade point average on a 4.0 scale and maintain standing as a full-time  
29       or part-time student at a postsecondary technical institute;  
30       (2) Attend a postsecondary technical institute and earn a technical degree in an area of  
31       critical need within four years after the person's first enrollment at the technical  
32       institute.

33       Section 6. A Dakota Tech scholarship award shall be in the amount of five thousand dollars  
34       per student and is awarded once for the duration of the student's course of study. The  
35       administrator may award Dakota Tech scholarships only to the extent that funds are available  
36       to provide scholarships. If the amount of money in the Dakota Tech scholarship fund is  
37       insufficient to provide a Dakota Tech scholarship to all eligible applicants, the administrator  
38       shall consider a person's field of study and financial need in awarding a Dakota Tech  
39       scholarship.

1       Section 7. If a person has been awarded a Dakota Tech scholarship, the administrator shall  
2 pay the postsecondary technical institute at which the person is enrolled the amount of five  
3 thousand dollars, to be deducted from the person 's tuition and fees over the duration of the  
4 person's course of study. The amount of the scholarship constitutes a obligation owed by the  
5 person to the administrator, which may be discharged as provided in sections 8 to 11, inclusive,  
6 of this Act.

7       Section 8. A person who has received a Dakota Tech scholarship is not required to repay any  
8 part of the scholarship if within six months of earning an eligible technical degree the person  
9 begins employment and is continuously employed in South Dakota for a period of forty-eight  
10 consecutive months in an area of critical need. A course of study and corresponding  
11 employment or occupation that was deemed an area of critical need at the time of the person's  
12 scholarship award remains an area of critical need for the duration of the person's course of  
13 study and for the forty-eight month employment period for purposes of determining any  
14 repayment obligation that the person may incur.

15       Section 9. If a person who has received a Dakota Tech scholarship does not maintain  
16 eligibility as specified in section 5 of this Act, the person shall reimburse the administrator the  
17 amount of the scholarship paid on behalf of the person, according to a repayment schedule set  
18 by GOED in rules promulgated pursuant to chapter 1-26.

19       Section 10. If a person who has received a Dakota Tech scholarship does not meet the  
20 requirement in section 8 of this Act, the person shall reimburse the administrator the amount of  
21 the scholarship paid on behalf of the person, according to a repayment schedule set by GOED  
22 in rules promulgated pursuant to chapter 1-26. The amount of repayment shall be based on the  
23 ratio of forty-eight months minus the number of months a person was continuously employed  
24 in an area of critical need to forty-eight months.

25       Section 11. If a person who has received a Dakota Tech scholarship is unable to maintain  
26 eligibility or remain employed in an area of critical need for forty-eight consecutive months due  
27 to factors outside the control of the person, the administrator may waive or delay the eligibility  
28 or repayment provisions of this Act.

29       Section 12. A person who has received a Dakota Tech scholarship shall annually report to  
30 the administrator the person's academic and occupational status on forms prescribed by the  
31 administrator.

32       Section 13. The Dakota Tech scholarship fund is hereby established as a separate fund in  
33 the state treasury to be administered by the Governor's Office of Economic Development.  
34 Money in the fund shall be used to implement the Dakota Tech scholarship program established  
35 pursuant to this Act. Money may enter the fund through legislative appropriations, fees,  
36 contributions, donations, grants, loans, interest received on money in the fund, and any other  
37 lawful public or private source. Money in the fund shall be appropriated by the Legislature  
38 through the normal budget process. Any expenditure from the fund shall be paid on warrants  
39 drawn by the state auditor on vouchers approved by the commissioner of the Governor's Office  
40 of Economic Development.

1 Section 14. The Governor's Office of Economic Development shall promulgate rules,  
2 pursuant to chapter 1-26, to implement the Dakota Tech scholarship program. The rules shall  
3 define occupations and geographical areas as areas of critical need, establish procedures for the  
4 awarding and acceptance of scholarships, establish requirements and guidelines to be followed  
5 by the administrator in implementing the program, establish criteria for monitoring the academic  
6 and occupational status of persons who have received a scholarship, establish financial need  
7 criteria, establish repayment schedules, and establish other procedures and requirements  
8 necessary for the implementation of the scholarship program.

9 Section 15. There is hereby appropriated from the general fund the sum of one dollar (\$1),  
10 or so much thereof as may be necessary, to the Governor's Office of Economic Development  
11 to be deposited into the Dakota Tech scholarship fund and made available, beginning on the  
12 effective date of this Act, to fund scholarships under the Dakota Tech scholarship program as  
13 provided in this Act. This appropriation may be used only for the funding of scholarships under  
14 the program. Administrative costs and other costs incurred by the administrator or by GOED  
15 in the implementation of the program may be met only through the use of funds from sources  
16 other than this appropriation.

17 Section 16. The commissioner of the Governor's Office of Economic Development shall  
18 approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by  
19 this Act.

20 Section 17. Any amounts appropriated in this Act not lawfully expended or obligated by  
21 June 30, 2013, shall revert in accordance with the procedures prescribed in chapter 4-8."

22 And that as so amended said bill be referred to the Committee on Appropriations with a  
23 do pass recommendation.

24 Also MR. PRESIDENT:

25 The Committee on Education respectfully reports that it has had under consideration SB 98  
26 and returns the same with the recommendation that said bill be amended as follows:

27 98ca

28 On page 3, line 5, of the printed bill, delete "eighty-four" and insert "one dollar (\$1)".

29 On page 3, line 6, delete "thousand dollars (\$84,000)".

30 98cb

31 On page 3, line 9, of the printed bill, delete "hundred" and insert "dollar (\$1)".

32 On page 3, line 10, delete "sixty-eight thousand dollars (\$168,000)".

1 And that as so amended said bill be referred to the Committee on Appropriations with a  
2 do pass recommendation.

3 Also MR. PRESIDENT:

4 The Committee on Education respectfully reports that it has had under consideration  
5 SB 139 and returns the same with the recommendation that said bill be amended as follows:

6 139ca

7 On page 2, line 19, of the printed bill, delete "million five" and insert "dollar (\$1)".

8 On page 2, line 20, delete "hundred thousand dollars (\$1,500,000)".

9 And that as so amended said bill be referred to the Committee on Appropriations with a  
10 do pass recommendation.

11 Also MR. PRESIDENT:

12 The Committee on Education respectfully reports that it has had under consideration  
13 SB 122 which was tabled.

14 Also MR. PRESIDENT:

15 The Committee on Education respectfully reports that it has had under consideration SB 44  
16 which was deferred to the 41<sup>st</sup> Legislative Day.

17 Respectfully submitted,  
18 J. Mark Johnston, Chair

19 Also MR. PRESIDENT:

20 The Committee on Transportation respectfully reports that it has had under consideration  
21 SB 80, which was removed from the table, and returns the same with the recommendation that  
22 said bill be amended as follows:

23 80ca

24 On the printed bill, delete everything after the enacting clause and insert:  
25

26 "Section 1. That chapter 13-53 be amended by adding thereto a NEW SECTION to read as  
27 follows:



Any person who is a veteran as defined by §§ 33A-2-1 and 33A-2-2 shall be classified as a resident student without meeting the twelve-month residency requirement within South Dakota pursuant to § 13-53-24.

Section 2. That § 13-53-24 be amended to read as follows:

13-53-24. A person entering the state from another state or country does not at that time acquire residence for the purpose of §§ 13-53-23 to 13-53-41, inclusive, unless, except as provided in § 13-53-29 or section 1 of this Act, such person is a resident for twelve months in order to qualify as a resident student for tuition and fee purposes."

80cta

On page 1, line 1, of the printed bill, delete everything after "An Act to" and insert "exempt veterans from the twelve-month residency requirement for the purposes of tuition and fees."

On page 1, delete line 2.

And that as so amended said bill do pass.

Also MR. PRESIDENT:

The Committee on Transportation respectfully reports that it has had under consideration SB 117 which was deferred to the 41<sup>st</sup> Legislative Day.

Respectfully submitted,  
Mike Vehle, Chair

Also MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration SB 146 and 183 and HB 1055 and returns the same with the recommendation that said bills do pass.

Also MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration SB 148 and returns the same with the recommendation that said bill do pass and be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration SB 52 which was tabled.

1 Also MR. PRESIDENT:

2 The Committee on Judiciary respectfully reports that it has had under consideration SB 60  
3 which was deferred to the 41<sup>st</sup> Legislative Day.

4 Respectfully submitted,  
5 Craig Tieszen, Chair

6 Also MR. PRESIDENT:

7 The Committee on Health and Human Services respectfully reports that it has had under  
8 consideration HB 1009, 1010, 1026, and 1027 and returns the same with the recommendation  
9 that said bills do pass and be placed on the consent calendar.

10 Respectfully submitted,  
11 Jean M. Hunhoff, Chair

12 Also MR. PRESIDENT:

13 The Committee on Taxation respectfully reports that it has had under consideration  
14 HB 1075 and returns the same with the recommendation that said bill do pass and be placed on  
15 the consent calendar.

16 Also MR. PRESIDENT:

17 The Committee on Taxation respectfully reports that it has had under consideration  
18 HB 1197 which was deferred to the 41<sup>st</sup> Legislative Day.

19 Respectfully submitted,  
20 Tom Hansen, Chair

21 Also MR. PRESIDENT:

22 The Committee on Commerce and Energy respectfully reports that it has had under  
23 consideration SB 184 and 185 which were deferred to the 41<sup>st</sup> Legislative Day.

24 Respectfully submitted,  
25 Tom Nelson, Chair

26 Also MR. PRESIDENT:

27 The Committee on Appropriations respectfully reports that it has had under consideration  
28 SB 189 and returns the same with the recommendation that said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration  
3 SB 48 and returns the same with the recommendation that said bill be amended as follows:

4 48ba

5 On page 1, between lines 8 and 9 of the printed bill, insert:

6 "Operating Expenses, Other Funds, delete "\$15,968,933" and insert "\$20,968,933".

7 48ma

8 On page 1, line 14, of the printed bill, delete "4,001,434" and insert "4,390,285".

9 48aa

10 On page 3 of the printed bill, delete lines 9 to 14, inclusive.

11 On page 8, between lines 11 and 12, insert:

12 "Section 27. That Chapter 23 of the 2011 Session Laws be amended to be adding thereto  
13 a NEW SECTION to read as follows:

14 Section 36. The state treasurer shall transfer to the railroad trust fund four million dollars  
15 (\$4,000,000), from the state general fund."

16 48oa

17 On page 3, between lines 20 and 21 of the printed bill, insert:

18 "Section 10. That section 13 of chapter 23 of the 2011 Session Laws be amended to read  
19 as follows:

20 DEPARTMENT OF PUBLIC SAFETY

21 (4) Inspection and Licensing

22 Operating Expenses, Other Funds, delete "2,865,047" and insert "2,893,047"

23 Adjust all totals accordingly."

24 And that as so amended said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration  
3 SB 82 and returns the same with the recommendation that said bill be amended as follows:

4 82aa

5 On page 1 of the printed bill, delete lines 5 to 12, inclusive, and insert:

6 "43-41B-24.1. Money in the unclaimed property trust fund for payment of costs and  
7 expenses authorized under § 43-41B-24 is continuously appropriated for those purposes. Any  
8 expenditures shall be paid upon warrants drawn by the state auditor pursuant to vouchers  
9 authorized by the state treasurer. All funds paid out by the state treasurer under chapter 43-41B  
10 shall be set forth in an informational budget as described in § 4-7-7.2 and be annually reviewed  
11 by the Legislature. Any expenditure other than unclaimed property claims that exceeds the  
12 informational budget shall be approved by the Board of Finance pursuant to chapter 4-1."

13 And that as so amended said bill do pass.

14 Also MR. PRESIDENT:

15 The Committee on Appropriations respectfully reports that it has had under consideration  
16 SB 193 and returns the same with the recommendation that said bill be amended as follows:

17 193oa

18 On page 1, line 5, of the printed bill, delete "on or before September" and insert "before  
19 March".

20 On page 1, line 9, delete "five percent" and insert "a percentage".

21 On page 1, line 10, after "." insert "This percentage shall be five percent for an employee  
22 hired before March 24, 2009; three and four-tenths percent for an employee hired March 24,  
23 2009 to March 23, 2010, inclusive; and one and seven-tenths percent for an employee hired  
24 March 24, 2010 to March 23, 2011, inclusive."

25 On page 1, line 14, after "." insert "If a full-time employee's annual salary is less than  
26 forty-six thousand dollars, the calculation shall be based on forty-six thousand dollars times the  
27 percent of time the employee is regularly scheduled to work. If a full-time employee's annual  
28 salary is more than one hundred fifty thousand dollars, the calculation shall be based on one  
29 hundred fifty thousand dollars times the percent of time the employee is regularly scheduled to  
30 work."

31 And that as so amended said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration  
3 SB 159 and 165 which were tabled.

4 Also MR. PRESIDENT:

5 The Committee on Appropriations respectfully reports that it has had under consideration  
6 SB 61 which was deferred to the 41<sup>st</sup> Legislative Day.

7 Respectfully submitted,  
8 Corey Brown, Chair

9 Also MR. PRESIDENT:

10 The Committee on State Affairs respectfully reports that it has had under consideration  
11 HB 1119 and returns the same with the recommendation that said bill do pass.

12 Also MR. PRESIDENT:

13 The Committee on State Affairs respectfully reports that it has had under consideration  
14 HB 1028 and 1044 and returns the same with the recommendation that said bills do pass and  
15 be placed on the consent calendar.

16 Also MR. PRESIDENT:

17 The Committee on State Affairs respectfully reports that it has had under consideration  
18 SB 187 and returns the same with the recommendation that said bill be amended as follows:

19 187ob

20 On page 1, after line 7 of the printed bill, insert:

21 "Section. 2. That § 1-26E-1 be repealed.

22 ~~— 1-26E-1. For the purposes of §§ 1-26E-1 to 1-26E-8, inclusive, the term, state agency,~~  
23 ~~means any department, division, office, commission, board, or any other unit of state~~  
24 ~~government. The term does not include any local unit of government.~~

25 Section 3. That § 1-26E-2 be repealed.

26 ~~— 1-26E-2. The Executive Board of the Legislative Research Council shall establish and~~  
27 ~~appoint the members of one or more interim committees each year to review one or more state~~

1 agencies. The executive board shall establish a schedule whereby each state agency is reviewed  
2 by an interim committee once every ten years.

3 Section 4. That § 1-26E-3 be repealed.

4 ~~— 1-26E-3. Any committee appointed pursuant to §§ 1-26E-1 to 1-26E-8, inclusive, shall~~  
5 ~~implement the procedures of §§ 1-26E-1 to 1-26E-8, inclusive, and may establish its own~~  
6 ~~procedures for the review and evaluation required by §§ 1-26E-1 to 1-26E-8, inclusive.~~

7 Section 5. That § 1-26E-4 be repealed.

8 ~~— 1-26E-4. Each committee shall hold public hearings and receive testimony from the public~~  
9 ~~and all interested parties. The state agency under review shall bear the burden of establishing~~  
10 ~~that sufficient public need is present to justify its continued existence. The state agency under~~  
11 ~~review shall provide the committee with the following information:~~

- 12 ~~— (1) The identity of all offices under the direct or advisory control of the state agency;~~  
13 ~~— (2) All powers, duties, and functions currently performed by the state agency;~~  
14 ~~— (3) All constitutional, statutory, or other authority under which the powers, duties, and~~  
15 ~~functions of the state agency are carried out;~~  
16 ~~— (4) Any powers, duties, or functions which the state agency is performing and which is~~  
17 ~~duplicated by another state agency within the state including the manner in which,~~  
18 ~~and the extent to which, the duplication of effort is occurring and any~~  
19 ~~recommendations as to eliminating the duplications;~~  
20 ~~— (5) Any powers, duties, or functions which are inconsistent with current and projected~~  
21 ~~public needs and which should be terminated or altered; and~~  
22 ~~— (6) Any other information which the committee feels is necessary and proper to carry out~~  
23 ~~its review and evaluative duties.~~

24 Section 6. That § 1-26E-5 be repealed.

25 ~~— 1-26E-5. To determine whether a sufficient public need for continuing the state agency is~~  
26 ~~present, a committee shall take into consideration the following factors concerning the state~~  
27 ~~agency:~~

- 28 ~~— (1) The extent to which any information required to be furnished to the reviewing~~  
29 ~~committee pursuant to § 1-26E-4 has been omitted, misstated, or refused, and the~~  
30 ~~extent to which conclusions reasonably drawn from the information are adverse to~~  
31 ~~the legislative intent inherent in the powers, duties, and functions as established in~~  
32 ~~the enabling legislation creating the state agency, or is inconsistent with present or~~  
33 ~~projected public demands or needs;~~  
34 ~~— (2) The extent to which statutory changes have been recommended which would benefit~~  
35 ~~the public in general as opposed to benefiting the state agency;~~  
36 ~~— (3) The extent to which the operation of the state agency has been efficient and~~  
37 ~~responsive to the public needs;~~  
38 ~~— (4) The extent to which the state agency has encouraged the persons regulated to report~~  
39 ~~to it concerning the impact of its rules and decisions regarding improved services,~~  
40 ~~economy of service, or availability of service to the public;~~  
41 ~~— (5) The extent to which the public has been encouraged to participate in rule and~~  
42 ~~decision making as opposed to participation solely by persons regulated;~~

~~(6) The extent to which complaints have been expeditiously processed to completion in the public interest; and~~

~~(7) Any other relevant criteria which the committee deems necessary and proper in reviewing and evaluating the sufficient public need for continuance of the state agency.~~

6 Section 7. That § 1-26E-6 be repealed.

~~1-26E-6. The Department of Legislative Audit shall furnish, upon request of a committee, any relevant information including the reports of audits of the state agency under review.~~

9 Section 8. That § 1-26E-7 be repealed.

~~10 —1-26E-7. Each committee shall submit reports recommending either the continuation,  
11 revision, or termination of the state agency under review to the Executive Board of the  
12 Legislative Research Council for distribution to legislators and the Governor before the first  
13 legislative day of the ensuing regular legislative session.~~

14      Section 9. That § 1-26E-8 be repealed.

~~15 — 1-26E-8. Each committee shall submit its recommendations concerning the state agency and~~  
~~16 laws that it believes should be repealed or revised to the Legislature in one or more bills.".~~

17 187otb

18 On page 1, line 2, of the printed bill, after "audit" and insert "and to repeal certain  
19 provisions regarding the legislative review of state agencies".

20 And that as so amended said bill do pass.

21 Also MR. PRESIDENT:

22 The Committee on State Affairs respectfully reports that it has had under consideration the  
23 nomination of Dennis Neugebauer of Minnehaha County, Sioux Falls, South Dakota, to the  
24 South Dakota Building Authority and returns the same with the recommendation that the Senate  
25 advise and consent to the confirmation of said appointment and be placed on the Consent  
26 Calendar.

27 Also MR. PRESIDENT:

28 The Committee on State Affairs respectfully reports that it has had under consideration the  
29 nomination of Douglas J. Hajek of Minnehaha County, Sioux Falls, South Dakota, to the South  
30 Dakota Building Authority and returns the same with the recommendation that the Senate advise  
31 and consent to the confirmation of said appointment and be placed on the Consent Calendar.

1 Also MR. PRESIDENT:

2 The Committee on State Affairs respectfully reports that it has had under consideration  
3 SB 190 which was tabled.

4 Also MR. PRESIDENT:

5 The Committee on State Affairs respectfully reports that it has had under consideration  
6 SB 179 which was deferred to the 41<sup>st</sup> Legislative Day.

7 Respectfully submitted,  
8 Larry Rhoden, Chair

9 Sen. Brown moved that the rules be suspended for the sole purpose of adopting the  
10 Standing Committee on Education reports on SB 77, 98, and 139 which were amended and  
11 referred to the Committee on Appropriations.

12 The question being on Sen. Brown's motion that the rules be suspended for the sole  
13 purpose of adopting the Standing Committee on Education reports on SB 77, 98, and 139 which  
14 were amended and referred to the Committee on Appropriations.

15 And the roll being called:

16 Yeas 31, Nays 0, Excused 4, Absent 0

17 Yeas:

18 Adelstein; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
19 Heineman; Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher;  
20 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
21 Sutton; Tidemann; Tieszen; Vehle

22 Excused:

23 Begalka; Holien; Nygaard; Schlekeway

24 So the motion having received an affirmative vote of a two-thirds majority of the members-  
25 elect, the President declared the motion carried.

26 Also MR. PRESIDENT:

27 The Committee on Legislative Procedure respectfully reports that SB 3, 16, 17, 26, 28, and  
28 55 were delivered to his Excellency, the Governor, for his approval at 9:05 a.m., February 10,  
29 2012.

30 Respectfully submitted,  
31 Bob Gray, Chair



1 Also MR. PRESIDENT:

2 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing  
3 and Enrolling has carefully compared SB 7 and finds the same correctly enrolled.

4 Respectfully submitted,  
5 Bob Gray, Chair

6 **MESSAGES FROM THE HOUSE**

7 MR. PRESIDENT:

8 I have the honor to transmit herewith HB 1066, 1084, 1130, 1187, and 1194 which have  
9 passed the House and your favorable consideration is respectfully requested.

10 Also MR. PRESIDENT:

11 I have the honor to return herewith SB 7 which has passed the House without change.

12 Respectfully,  
13 Karen Gerdes, Chief Clerk

14 **MOTIONS AND RESOLUTIONS**

15 Sen. Olson moved that SB 191, 75, 192, and 108 and HB 1088, 1115, 1202, 1049, and  
16 1020 be deferred to Monday, February 13, the 20<sup>th</sup> legislative day.

17 Which motion prevailed.

18 SCR 5: A CONCURRENT RESOLUTION, Supporting and encouraging a 2012 interim  
19 study and thorough review of drainage laws in South Dakota.

20 Was read the second time.

21 Sen. Olson moved that SCR 5 as found on page 335 of the Senate Journal be adopted.

22 The question being on Sen. Olson's motion that SCR 5 be adopted.

23 And the roll being called:

24 Yeas 27, Nays 3, Excused 5, Absent 0

1 Yeas:

2 Adelstein; Bradford; Brown; Buhl; Cutler; Fryslie; Hansen (Tom); Haverly; Heineman; Hunhoff  
3 (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson (Tom); Novstrup (Al); Olson  
4 (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Tidemann; Tieszen; Vehle

5 Nays:

6 Frerichs; Gray; Sutton

7 Excused:

8 Begalka; Holien; Hundstad; Nygaard; Schlekeway

9 So the motion having received an affirmative vote of a majority of the members-elect, the  
10 President declared the motion carried and SCR 5 was adopted.

11 HCR 1007: A CONCURRENT RESOLUTION, Urging the members of the South Dakota  
12 Congressional delegation to sponsor and support the Marketplace Fairness Act and the  
13 Marketplace Equity Act.

14 Was read the second time.

15 Sen. Peters moved that the Senate do concur in HCR 1007 as found on page 356 of the  
16 House Journal.

17 The question being on Sen. Peters' motion that HCR 1007 be concurred in.

18 And the roll being called:

19 Yeas 30, Nays 0, Excused 5, Absent 0

20 Yeas:

21 Adelstein; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Haverly; Heineman;  
22 Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson (Tom);  
23 Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann;  
24 Tieszen; Vehle

25 Excused:

26 Begalka; Hansen (Tom); Holien; Nygaard; Schlekeway

27 So the motion having received an affirmative vote of a majority of the members-elect, the  
28 President declared the motion carried and HCR 1007 was concurred in.

29 Sen. Adelstein moved that the Committee on Transportation be instructed to deliver  
30 SB 118 to the floor of the Senate, pursuant to Joint Rule 7-7.

31 Which motion was not supported.

1                                   **CONSIDERATION OF REPORTS OF COMMITTEES**

2           Sen. Olson moved that the reports of the Standing Committees on  
3           Appropriations on SB 37 as found on page 330 of the Senate Journal; also  
4           Agriculture and Natural Resources on HB 160 as found on page 331 of the Senate Journal;  
5           also  
6           Commerce and Energy on SB 158 as found on page 332 of the Senate Journal be adopted.  
7           Which motion prevailed.

8                                   **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

9           HB 1066: FOR AN ACT ENTITLED, An Act to allow for the cremation of deceased  
10          persons who are indigent and the funeral expenses are the financial responsibility of the county.

11          Was read the first time and referred to the Committee on Local Government.

12          HB 1084: FOR AN ACT ENTITLED, An Act to revise the political qualifications for  
13          brand board membership.

14          Was read the first time and referred to the Committee on Agriculture and Natural  
15          Resources.

16          HB 1130: FOR AN ACT ENTITLED, An Act to revise the fee schedule for certain  
17          documents filed with the county register of deeds, to create a county and statewide fund for the  
18          purpose of modernizing and preserving records, and to distribute certain revenue.

19          Was read the first time and referred to the Committee on Local Government.

20          HB 1187: FOR AN ACT ENTITLED, An Act to exempt health care sharing ministries  
21          from the provisions of the health insurance code.

22          Was read the first time and referred to the Committee on Health and Human Services.

23          HB 1194: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
24          payment for rape and sexual offense examinations.

25          Was read the first time and referred to the Committee on Judiciary.

1     **SECOND READING OF CONSENT CALENDAR EXECUTIVE APPOINTMENTS**

2           The Senate proceeded to the consideration of the executive reappointment of Curt  
3 Mortenson of Stanley County, Fort Pierre, South Dakota, to the State Brand Board.

4           The question being "Does the Senate advise and consent to the executive reappointment  
5 of Curt Mortenson pursuant to the executive message as found on page 204 of the Senate  
6 Journal?"

7           And the roll being called:

8           Yeas 29, Nays 0, Excused 6, Absent 0

9           Yeas:

10 Adelstein; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Haverly; Heineman;  
11 Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Novstrup (Al);  
12 Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann; Tieszen;  
13 Vehle

14          Excused:

15 Begalka; Hansen (Tom); Holien; Nelson (Tom); Nygaard; Schlekeway

16          So the question having received an affirmative vote of a majority of the members-elect, the  
17 President declared the reappointment confirmed.

18          The Senate proceeded to the consideration of the executive reappointment of Bart Blum  
19 of Lyman County, Reliance, South Dakota, to the State Brand Board.

20          The question being "Does the Senate advise and consent to the executive reappointment  
21 of Bart Blum pursuant to the executive message as found on page 204 of the Senate Journal?"

22          And the roll being called:

23          Yeas 29, Nays 0, Excused 6, Absent 0

24          Yeas:

25 Adelstein; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Haverly; Heineman;  
26 Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Novstrup (Al);  
27 Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann; Tieszen;  
28 Vehle

1       Excused:

2       Begalka; Hansen (Tom); Holien; Nelson (Tom); Nygaard; Schlekeway

3       So the question having received an affirmative vote of a majority of the members-elect, the  
4       President declared the reappointment confirmed.

5                   **SECOND READING OF CONSENT CALENDAR ITEMS**

6       Sen. Brown requested that HB 1018 be removed from the Consent Calendar.

7       Pursuant to Senate Rule 6-1, the President removed HB 1036 from the Consent Calendar.

8       SB 116: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the  
9       township road system.

10       Was read the second time.

11       The question being "Shall SB 116 pass as amended?"

12       And the roll being called:

13       Yeas 30, Nays 0, Excused 5, Absent 0

14       Yeas:

15       Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslye; Gray; Haverly; Heineman;  
16       Holien; Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher;  
17       Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann;  
18       Vehle

19       Excused:

20       Hansen (Tom); Nelson (Tom); Nygaard; Schlekeway; Tieszen

21       So the bill having received an affirmative vote of a majority of the members-elect, the  
22       President declared the bill passed and the title was agreed to.

23                   **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

24       SB 196: FOR AN ACT ENTITLED, An Act to allow for the redistribution of existing  
25       nursing facility beds.

26       Was read the second time.

1 The question being "Shall SB 196 pass?"

2 And the roll being called:

3 Yeas 28, Nays 2, Excused 5, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Haverly; Heineman;  
6 Holien; Hunhoff (Jean); Juhnke; Kraus; Krebs; Lederman; Maher; Novstrup (Al); Olson  
7 (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann; Vehle

8 Nays:

9 Hundstad; Johnston

10 Excused:

11 Hansen (Tom); Nelson (Tom); Nygaard; Schlekeway; Tieszen

12 So the bill having received an affirmative vote of a majority of the members-elect, the  
13 President declared the bill passed and the title was agreed to.

14 SB 145: FOR AN ACT ENTITLED, An Act to prohibit rebates and regulate contracts for  
15 residential roofing goods and services.

16 Was read the second time.

17 The question being "Shall SB 145 pass as amended?"

18 And the roll being called:

19 Yeas 29, Nays 0, Excused 6, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Haverly; Heineman;  
22 Holien; Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Maher; Novstrup (Al);  
23 Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann; Vehle

24 Excused:

25 Hansen (Tom); Lederman; Nelson (Tom); Nygaard; Schlekeway; Tieszen

26 So the bill having received an affirmative vote of a majority of the members-elect, the  
27 President declared the bill passed and the title was agreed to.

28 SB 125: FOR AN ACT ENTITLED, An Act to require certain day care providers to mail  
29 notices of noncompliance.

1 Was read the second time.

2 The question being "Shall SB 125 pass as amended?"

3 And the roll being called:

4 Yeas 11, Nays 18, Excused 6, Absent 0

5 Yeas:

6 Adelstein; Bradford; Buhl; Cutler; Frerichs; Hundstad; Johnston; Krebs; Rhoden; Sutton;  
7 Tidemann

8 Nays:

9 Begalka; Brown; Fryslie; Gray; Haverly; Heineman; Holien; Hunhoff (Jean); Juhnke; Kraus;  
10 Maher; Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Vehle

11 Excused:

12 Hansen (Tom); Lederman; Nelson (Tom); Nygaard; Schlekeway; Tieszen

13 So the bill not having received an affirmative vote of a majority of the members-elect, the  
14 President declared the bill lost.

15 SB 174: FOR AN ACT ENTITLED, An Act to increase the 911 emergency surcharge, to  
16 revise the collection and distribution of the surcharge revenue, to provide for point of sale  
17 collection of the prepaid wireless 911 emergency surcharge, and to provide funding for the  
18 upgrade of 911 emergency services.

19 Was read the second time.

20 The question being "Shall SB 174 pass as amended?"

21 And the roll being called:

22 Yeas 29, Nays 0, Excused 6, Absent 0

23 Yeas:

24 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Haverly; Heineman;  
25 Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Novstrup (Al);  
26 Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann; Vehle

27 Excused:

28 Hansen (Tom); Hundstad; Nelson (Tom); Nygaard; Schlekeway; Tieszen

29 So the bill having received an affirmative vote of a two-thirds majority of the members-  
30 elect, the President declared the bill passed and the title was agreed to.

SB 175: FOR AN ACT ENTITLED, An Act to increase the number of video lottery machines that may be placed in a licensed establishment.

Was read the second time.

The question being "Shall SB 175 pass as amended?"

And the roll being called:

Yeas 24, Nays 6, Excused 5, Absent 0

Yeas:

Adelstein; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Krebs; Lederman; Maher; Olson (Russell); Peters; Putnam; Rave; Sutton; Tidemann; Tieszen; Vehle

Nays:

Begalka; Cutler; Kraus; Novstrup (Al); Rampelberg; Rhoden

Excused:

Hansen (Tom); Hundstad; Nelson (Tom); Nygaard; Schlekeway

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

SB 84: FOR AN ACT ENTITLED, An Act to allow for the reimbursement of travel expenses during the recruitment of certain professional staff.

Was read the second time.

The question being "Shall SB 84 pass?"

And the roll being called:

Yeas 30, Nays 0, Excused 5, Absent 0

Yeas:

Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Maher; Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann; Tieszen; Vehle

Excused:

Hundstad; Lederman; Nelson (Tom); Nygaard; Schlekeway



1 So the bill having received an affirmative vote of a majority of the members-elect, the  
2 President declared the bill passed and the title was agreed to.

3 SB 90: FOR AN ACT ENTITLED, An Act to establish a fee for payments returned to the  
4 Office of the Secretary of State due to insufficient funds and to provide for the distribution of  
5 the fee.

6 Was read the second time.

7 The question being "Shall SB 90 pass?"

8 And the roll being called:

9 Yeas 30, Nays 0, Excused 5, Absent 0

10 Yeas:

11 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);  
12 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Nelson (Tom);  
13 Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann;  
14 Tieszen; Vehle

15 Excused:

16 Hundstad; Lederman; Maher; Nygaard; Schlekeway

17 So the bill having received an affirmative vote of a two-thirds majority of the members-  
18 elect, the President declared the bill passed and the title was agreed to.

19 SB 194: FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds  
20 for elderly persons and persons with a disability, to revise the income eligibility requirements  
21 for property tax and sales tax refunds, and to declare an emergency.

22 Was read the second time.

23 The question being "Shall SB 194 pass?"

24 And the roll being called:

25 Yeas 30, Nays 0, Excused 5, Absent 0

26 Yeas:

27 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);  
28 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Nelson (Tom);  
29 Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann;  
30 Tieszen; Vehle

1       Excused:  
2   Hundstad; Lederman; Maher; Nygaard; Schlekeway

3       So the bill having received an affirmative vote of a two-thirds majority of the members-  
4   elect, the President declared the bill passed and the title was agreed to.

5       SB 155: FOR AN ACT ENTITLED, An Act to prohibit the employment of unauthorized  
6   aliens and to provide penalties therefor.

7       Was read the second time.

8       The question being "Shall SB 155 pass?"

9       And the roll being called:

10      Yeas 10, Nays 19, Excused 6, Absent 0

11      Yeas:  
12   Adelstein; Brown; Haverly; Johnston; Kraus; Nelson (Tom); Olson (Russell); Putnam; Tieszen;  
13   Vehle

14      Nays:  
15   Begalka; Bradford; Buhl; Frerichs; Fryslie; Gray; Hansen (Tom); Heineman; Holien; Hunhoff  
16   (Jean); Juhnke; Krebs; Novstrup (Al); Peters; Rampelberg; Rave; Rhoden; Sutton; Tidemann

17      Excused:  
18   Cutler; Hundstad; Lederman; Maher; Nygaard; Schlekeway

19      So the bill not having received an affirmative vote of a majority of the members-elect, the  
20   President declared the bill lost.

21      SB 112: FOR AN ACT ENTITLED, An Act to remove the limitation on the number of  
22   retail gaming licenses in Deadwood in which a person may have a financial interest.

23      Was read the second time.

24      The question being "Shall SB 112 pass?"

25      And the roll being called:

26      Yeas 26, Nays 4, Excused 5, Absent 0

27      Yeas:  
28   Adelstein; Begalka; Brown; Buhl; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly; Heineman;  
29   Holien; Hunhoff (Jean); Johnston; Juhnke; Krebs; Maher; Nelson (Tom); Novstrup (Al); Olson  
30   (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Tidemann; Tieszen

1 Nays:  
2 Bradford; Kraus; Sutton; Vehle

3 Excused:  
4 Cutler; Hundstad; Lederman; Nygaard; Schlekeway

5 So the bill having received an affirmative vote of a majority of the members-elect, the  
6 President declared the bill passed and the title was agreed to.

7 **SIGNING OF BILLS**

8 The President publicly read the title to

9 SB 7: FOR AN ACT ENTITLED, An Act to repeal certain provisions allowing for the  
10 certification of technology parks and to allow public or private developers to apply for  
11 certification.

12 HB 1069: FOR AN ACT ENTITLED, An Act to increase the amount of income and  
13 principal of a perpetual fund used to maintain a cemetery.

14 And signed the same in the presence of the Senate.

15 Sen. Maher moved that the Senate do now adjourn, which motion prevailed and at  
16 3:47 p.m. the Senate adjourned.

17 Fee Jacobsen, Secretary